

No. 14-1751 RS

¹ 1 CSR 15-3.446(6).

party or other evidence admissible under the law.² We make the following findings of fact based on the pleadings and the affidavit accompanying the Director's motion.

Findings of Fact

1. The Director informed LSI of her final decision to impose use tax, additions to tax, and statutory interest by certified mail on August 24, 2014.
2. On November 3, 2014, LSI filed a complaint with this Commission, appealing the Director's final decision.
3. November 3, 2014, was more than sixty days after August 24, 2014.

Conclusions of Law

The Director argues LSI's complaint is untimely under § 144.261,³ which establishes the limitations period for this action:

Final decisions of the director under the provisions of this chapter are reviewable by the filing of a petition with the administrative hearing commission in the manner provided in section 621.050, RSMo; except that, notwithstanding the provisions of section 621.050, RSMo, to the contrary, such petition must be filed within sixty days after the mailing or delivery of such decision, whichever is earlier.

The statute required LSI to file an appeal within sixty days of the mailing of the Director's final decision. The decision letter was mailed on August 24, 2012. Sixty day from that date was October 23, 2012. LSI filed its complaint over two years out of time.

The untimely filing of LSI's complaint deprives us of jurisdiction to hear it.⁴ If we have no jurisdiction to hear the complaint, we cannot reach the merits of the case and can only exercise our inherent power to dismiss.⁵

² 1 CSR 15-3.446(6).

³ RSMo 2000.

⁴ *Community Fed. Sav. & Loan Assoc. v. Director of Revenue*, 752 S.W.2d 794, 799 (Mo.), *cert. denied*, 488 U.S. 893 (1988); *Springfield Park Cent. Hosp. v. Director of Revenue*, 643 S.W.2d 599, 600 (Mo. 1984).

⁵ *Oberreiter v. Fullbright Trucking*, 24 S.W.3d 727, 729 (Mo. App. E.D. 2000).

Summary

We grant the Director's motion and dismiss LSI's complaint.

SO ORDERED on December 24, 2014.

//Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner